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FEDERAL RESERVE SYSTEM

12 CFR Part 219

Regulation S; Docket No. R-1444

RIN No. 7100 AD 91

Reimbursement to Financial Institutions for Providing Financial Records; Recordkeeping Requirements for Certain Financial Records

AGENCY: Board of Governors of the Federal Reserve System

ACTION: Final rule; technical amendment

SUMMARY: The Board of Governors (Board) is amending its regulation which governs recordkeeping and reporting requirements for funds transfers and transmittals of funds, to conform the citations and references to organizational changes adopted by the Director of the Financial Crimes Enforcement Network (FinCEN) in 2010.

DATES: The final rule will become effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Dena L. Milligan, Attorney, (202) 452-3900, Legal Division. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263-4869.

SUPPLEMENTARY INFORMATION: The statutory framework generally referred to as the Bank Secrecy Act (BSA) authorizes the Secretary of the Treasury to require financial institutions

to keep records and file reports that the Secretary determines have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.¹ The Annunzio-Wylie Anti-Money Laundering Act of 1992 (Pub. L. 102-550) (Annunzio-Wylie) amended the BSA to authorize the Treasury and the Board jointly to prescribe regulations to require banks and nonbank financial institutions to maintain records regarding domestic and international funds transfers and transmittals of funds if the Secretary and the Board determine that the maintenance of records has a high degree of usefulness in the criminal, tax, or regulatory investigations or proceedings.²

On January 3, 1995, the Secretary and the Board jointly issued a rule that requires banks and nonbank financial institutions to collect and retain certain information on funds transfers and transmittals of funds (“recordkeeping rule”).³ To minimize potential confusion by affected entities regarding the scope of the joint recordkeeping rule and the rule’s interaction with other anti-money laundering regulations, the substantive requirements of the recordkeeping rule were codified in 31 CFR Part 103 with other BSA regulations. At the same time, the Board separately adopted the recordkeeping rule’s requirements by adding existing subpart B to Regulation S. Subpart B incorporates the recordkeeping rule’s requirements by cross-referencing the jointly prescribed requirements then located in 31 CFR Part 103, rather than restating the requirements in full.⁴

In October 2010, FinCEN moved the BSA regulations, including those implementing the recordkeeping rule, from 31 CFR Part 103 to new Chapter X of Title 31 of the CFR.⁵ Within the new Chapter X, FinCEN reorganized the BSA regulations by financial industry to make it easier

¹ The BSA is codified at 12 U.S.C. 1829b and 1951-1959, and 31 U.S.C. 5311-5329.

² 12 USC 1829b(b).

³ 60 FR 220 (Jan. 3, 1995).

⁴ 60 FR 232 (Jan. 3, 1995).

⁵ The Secretary delegated to the Director of the Financial Crimes Enforcement Network (FinCEN), the authority to implement, administer, and enforce compliance with the BSA and associated regulations. Treasury Order 180-01 (Sept. 26, 2002).

to find regulatory requirements. With respect to the cross-references in Regulation S, 31 CFR 103.11 was redesignated as 31 CFR 1010.100, 31 CFR 103.33(e) was redesignated as 31 CFR 1020.410(a), and 31 CFR 103.33(f) was redesignated as 31 CFR 1010.410(e).⁶

The Board is amending the cross-references in subpart B of its Regulation S to conform the references to the reorganized BSA regulations. These amendments do not have any effect on the substantive requirements imposed by Regulation S.

Administrative Procedure Act

In accordance with section 553(b) the Administrative Procedures Act (APA) (5 U.S.C. 553(b)), the Board finds, for good cause, that providing an opportunity for public comment is unnecessary. The amendments are solely technical amendments that revise citations to conform to a previous reorganization of BSA regulations in the CFR.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed the final rule under authority delegated to the Board by the Office of Management and Budget. The technical amendments to Regulation S will revise the cross-references to conform to a previous reorganization of BSA regulations in the CFR. The amendments do not change any substantive requirements of the regulation or currently approved information collections. Therefore, no additional paperwork burden will be imposed as a result of this rulemaking.

List of Subjects in 12 CFR Part 219

Banks, Banking, Currency, Reporting and recordkeeping requirements, Foreign banking.

Authority and Issuance

⁶ 75 FR 65806 (Oct. 26, 2010).

For the reasons set forth in the preamble, the Board is amending 12 CFR part 219 as follows:

**PART 219—REIMBURSEMENT FOR PROVIDING FINANCIAL RECORDS;
RECORDKEEPING REQUIREMENTS FOR CERTAIN FINANCIAL RECORDS
(REGULATION S)**

1. The authority citation for part 219 continues to read as follows:

AUTHORITY: 12 U.S.C. 3415.

2. Section 219.21 is amended as follows:

- a. Remove “31 CFR 103.11 and 103.33(e) and (f)” and add in its place “31 CFR 1010.100, 1010.410(e), and 1020.410(a)”;

- b. Remove “31 CFR 103.33(e) or (f)” and add in its place “31 CFR 1010.410(e) or 1020.410(a).”

3. Section 219.22 is amended by removing “31 CFR 103.11” and adding in its place “31 CFR 1010.100.”

4. Section 219.23 is amended as follows:

- a. In paragraph (a), remove “31 CFR 103.33(e)” and add in its place “31 CFR 1020.410(a)” wherever it appears;

- b. In paragraph (b), remove “31 CFR 103.33(f)” and add in its place “31 CFR 1010.410(e)” wherever it appears.

**By order of the Board of Governors of the Federal Reserve System, acting through
the Secretary of the Board under delegated authority, October 18, 2012.**

Robert deV. Frierson,
Secretary of the Board.

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